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C O N F I D E N T I A L SECTION 01 OF 02 BRUSSELS 001922

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SUBJECT: PM LETERME UNDER FIRE FOR ALLEGED INTERFERENCE
WITH JUDGE IN FORTIS CASE

REF: BRUSSELS 1918

Classified By: Political-Economic Counselor Richard Eason, reason 1.4(b)
) and (d)

11. (U) Summary: Prime Minister Yves Leterme is facing allegations that he or his cabinet tried to pressure a Belgian appeals court to rule in favor of the government in a major case brought by angry Fortis Bank shareholders to stymie the bank's sale to Bank PariBas. In response to media criticism, Leterme sent an unusual public letter to the Minister of Justice detailing contacts between his staff and court officials, which denied any wrong doing. A parliamentary inquiry began December 18. Absent further evidence of pressure on the courts, and despite a great hue and cry among the press and the opposition, Leterme may survive this latest controversy. However, latest information from the appeals court indicates that "someone" did indeed try to interfere with the composition of the panel of judges and the court's December 12 ruling, which was against the government. It appears more and more likely that Leterme will resign. Belgian politicians are so far reluctant to bring down the entire government when regional and European Parliament elections are scheduled for June 2009, and forming a government is always a difficult task in the complex Belgian system. End Summary.

12. (U) On December 12, a court of appeals in Brussels ruled that the government of Belgium had acted too hastily when it organized the sale of Fortis Bank to Bank PariBas of France and that the shareholders of the company should have had a chance to vote on the matter in general assembly (reftel). The court froze action on the sale until February 15. The ruling was a setback for the government, which fears Bank PariBas will get cold feet if legal action in Belgium delays the sale too long. Bank PariBas officials have just now begun saying that in newspaper reports.

13. (U) Since December 15, allegations have been flying (mainly from the Flemish opposition and the Flemish newspaper De Tijd) that the Prime Minister, or at least members of his cabinet, tried to influence the appeals court judges to decide in the government's favor. Exactly who, what and how the pressure was allegedly applied is unclear. On December 17, Prime Minister Leterme appeared before parliament and released a remarkable letter, addressed to the Minister of Justice, that sets forth in great detail a series of phone calls from the husband of one of the judges to Leterme's chief of staff. The judge was the only one of three appeals court judges who refused to sign the decision in the Fortis shareholders' favor. It appears from the letter that the husband was trying very hard to get in touch with the PM to let him know the decision was going against the Fortis sale, before it was released. Leterme's letter clearly states

that no effort to influence the court was made in response to the husband's messages. Leterme admitted conversations took place between his cabinet chief and the "substitut du procureur du Roi" (essentially a government lawyer who makes recommendations to the court of first instance -- not a judge), in November when that official issued an opinion that also supported the shareholders. He contends there was no improper pressure in that case either.

14. (U) The PM drafted the letter without informing his colleagues in the government or the leaders of the parties supporting his coalition. The letter's public release caught them by surprise. Clearly Leterme was eager to head off what he saw as a very serious political storm brewing over his conduct and that of his cabinet. The letter failed to have the desired effect, however. As soon as it was distributed the opposition parties called for Leterme's resignation. They argued there was ample evidence in the letter that the PM and his staff were in touch with the substitut and the judge, and that they had prior knowledge of the ruling of the appeals court in the shareholders' favor. As of December 18, the media was in full cry that the PM violated the separation of executive and judicial power, and like the opposition, is calling for his resignation. They allege that the PM failed to tell the whole truth in his letter and there were many more contacts between his office and the judges than Leterme revealed.

15. (U) Leterme appeared before parliament on December 17 to explain his actions. In an initial attempt to limit the damage, Leterme's CD&V party and the Flemish Liberals (Open VLD) announced they would seek a full-fledged parliamentary

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investigation into the matter. The leading ministers of the government met on December 18 to assess the political fallout from the letter and the allegations. They endorsed Leterme, but had little other option if they want to maintain political stability and calm financial markets. As they left the meeting, Leterme's colleagues made no attempt to hide their frustration and disappointment. Leterme was scheduled to appear again on December 18 but cabinet discussions -- obviously focused on the Fortis issue -- continued into the late afternoon and prevented him from going. According to late-breaking information, the appeals court has written a letter to the President of the House of Representatives stating that "someone" tried to interfere in the composition of the panel of judges and the court's December 12 ruling. It is looking more and more likely that Leterme will resign.

16. (C) Comment: Leterme's Prime Ministership would be threatened if the investigation brings any evidence to light that the PM attempted to pressure the independent judiciary. Even if the Parliamentary inquiry finds no illegal activity, the current media outcry and scrutiny is embarrassing for the Leterme government, whose recent reputation was closely tied to its handling the Fortis deal. There is no obvious successor to Leterme within the coalition, and new elections are unlikely at this time for two reasons. On the one hand, the opposition has little to gain from new elections in the short run; even a member of the Socialist opposition in Parliament admitted this to us. The various parties that make up the Belgian political tapestry are now focused on the regional and European elections in June 2009. Holding an additional election prior to June or holding three elections at the same time in June would be a major logistical difficulty. No party has been ascending in esteem among the Flemish electorate that could take advantage of new elections. However, if Leterme's reputation is ruined in the next few weeks, perhaps one party or another might rise to the occasion and draw CD&V support. Finally, all remember that the last federal election took place only a little more than a year ago and forming a government was an excruciatingly lengthy process. Another drawn-out government crisis in the midst of Belgium's on-going financial crisis would be particularly ill-timed. End Comment.

